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8 **BEFORE THE**
VETERINARY MEDICAL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 Case No. D1 2006 19

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

**ACCUSATION AND SECOND
AMENDED PETITION TO REVOKE
PROBATION**

12 **JAMES C. COGHLAN, D.V.M.**
17th Street Animal Hospital
13 1745 West 17th Street, #C
Santa Ana, CA 92706

14 **Veterinarian License No. VET 9742**

15 Respondent.
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17 Complainant alleges:

18 **PARTIES**

19 1. Annemarie Del Mugnaio (Complainant) brings this Accusation and Second Amended
20 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the
21 Veterinary Medical Board, Department of Consumer Affairs.

22 2. On or about September 1, 1987, the Veterinary Medical Board issued Veterinarian
23 License Number VET 9742 to James C. Coghlan (Respondent). The Veterinarian License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
25 2016, unless renewed.

26 3. In a disciplinary action entitled "*In the Matter of the Amended Accusation Against*
27 *James C. Coghlan*," Case No. AV 2006 19, the Veterinary Medical Board issued a Decision and
28 Order effective May 6, 2011, in which Respondent's Veterinarian License was revoked.

1 However, the revocation was stayed and Respondent's Veterinarian License was placed on
2 probation for four (4) years with certain terms and conditions. A copy of that Decision and Order
3 is attached as Exhibit A and is incorporated by reference.

4 JURISDICTIONAL AND STATUTORY PROVISIONS

5 4. This Accusation and Second Amended Petition to Revoke Probation is brought before
6 the Veterinary Medical Board (Board), Department of Consumer Affairs, under the authority of
7 the following laws. All section references are to the Business and Professions Code (Code)
8 unless otherwise indicated.

9 5. Section 118, subdivision (b) of the Code provides that the suspension, expiration,
10 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
11 disciplinary action during the period within which the license may be renewed, restored, reissued
12 or reinstated. Under Code section 4843.5, an expired license may be renewed at any time within
13 five years after its expiration on the filing of application for renewal on a form prescribed by the
14 board, and payment of the renewal fee in effect on the last regular renewal date.

15 6. Section 4875 of the Code provides, in pertinent part, that the Board may revoke or
16 suspend the license of any person to practice veterinary medicine, or any branch thereof, in this
17 state for any causes provided in Article 4 of the Veterinary Medicine Practice Act (Bus. & Prof.
18 Code Sections 4800 *et seq.*). In addition, the Board has the authority to assess a fine not in excess
19 of \$5,000 against a licensee for any of the causes specified in section 4883 of the Code. Such fine
20 may be assessed in lieu of, or in addition to, a suspension or revocation.

21 7. Section 4876 of the Code provides, in pertinent part, that in addition to its authority to
22 suspend or revoke a license or registration, or assess a fine on a person licensed or registered
23 under this chapter, the board shall have the authority to place a licensee or registrant on probation.

24 8. Section 4883 of the Code states:

25 The board may deny, revoke, or suspend a license or registration or assess a
26 fine as provided in Section 4875 for any of the following:
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1 (o) Violation, or the assisting or abetting violation, of any regulations adopted
2 by the board pursuant to this chapter.

3 REGULATORY PROVISIONS

4 9. California Code of Regulations, title 16, section 2032.1, states:

5 (a) It is unprofessional conduct for a veterinarian to administer, prescribe,
6 dispense or furnish a drug, medicine, appliance, or treatment of whatever nature for
7 the prevention, cure, or relief of a wound, fracture or bodily injury or disease of an
8 animal without having first established a veterinarian-client-patient relationship with
9 the animal patient or patients and the client, except where the patient is a wild
10 animal or the owner is unknown.

11 (b) A veterinarian-client-patient relationship shall be established by the
12 following:

13 (1) The client has authorized the veterinarian to assume responsibility
14 for making medical judgments regarding the health of the animal, including the
15 need for medical treatment,

16 (2) The veterinarian has sufficient knowledge of the animal(s) to initiate
17 at least a general or preliminary diagnosis of the medical condition of the
18 animal(s). This means that the veterinarian is personally acquainted with the
19 care of the animal(s) by virtue of an examination of the animal or by medically
20 appropriate and timely visits to the premises where the animals are kept, and

21 (3) The veterinarian has assumed responsibility for making medical
22 judgments regarding the health of the animal and has communicated with the
23 client a course of treatment appropriate to the circumstance.

24 (c) A drug shall not be prescribed for a duration inconsistent with the medical
25 condition of the animal(s) or type of drug prescribed. The veterinarian shall not
26 prescribe a drug for a duration longer than one year from the date the veterinarian
27 examined the animal(s) and prescribed the drug.

28 (d) As used herein, "drug" shall mean any controlled substance, as defined by
Section 4021 of Business and Professions code, and any dangerous drug, as defined
by Section 4022 of Business and Professions code.

10. California Code of Regulations, title 16, section 2032.3, states:

(a) Every veterinarian performing any act requiring a license pursuant to the
provisions of Chapter 11, Division 2, of the code, upon any animal or group of
animals shall prepare a legible, written or computer generated record concerning the
animal or animals which shall contain the following information:

(1) Name or initials of the person responsible for entries.

(2) Name, address and phone number of the client.

(3) Name or identity of the animal, herd or flock.

(4) Except for herds or flocks, age, sex, breed, species, and color of
the animal.

1 (5) Dates (beginning and ending) of custody of the animal, if
applicable.

2 (6) A history or pertinent information as it pertains to each animal,
3 herd, or flock's medical status.

4 (7) Data, including that obtained by instrumentation, from the
physical examination.

5 (8) Treatment and intended treatment plan, including medications,
6 dosages, route of administration, and frequency of use.

7 (9) Records for surgical procedures shall include a description of the
8 procedure, the name of the surgeon, the type of sedative/anesthetic agents
used, their route of administration, and their strength if available in more
than one strength.

9 (10) Diagnosis or assessment prior to performing a treatment or
10 procedure.

11 (11) If relevant, a prognosis of the animal's condition.

12 (12) All medications and treatments prescribed and dispensed,
including strength, dosage, route of administration, quantity, and frequency
13 of use.

14 (13) Daily progress, if relevant, and disposition of the case.

15 (b) Records shall be maintained for a minimum of three (3) years after the
16 animal's last visit. A summary of an animal's medical records shall be made
available to the client within five (5) days or sooner, depending if the animal is in
critical condition, upon his or her request. The summary shall include:

17 (1) Name and address of client and animal.

18 (2) Age, sex, breed, species, and color of the animal.

19 (3) A history or pertinent information as it pertains to each animal's
20 medical status.

21 (4) Data, including that obtained by instrumentation, from the
physical examination.

22 (5) Treatment and intended treatment plan, including medications,
23 their dosage and frequency of use.

24 (6) All medications and treatments prescribed and dispensed,
including strength, dosage, route of administration, quantity, and frequency
25 of use.

26 (7) Daily progress, if relevant, and disposition of the case.

27 III

28 III

1 (c)(1) Radiographs and digital images are the property of the veterinary
2 facility that originally ordered them to be prepared. Radiographs or digital images
3 shall be released to another veterinarian upon the request of another veterinarian who
4 has the authorization of the client. Radiographs shall be returned to the veterinary
5 facility which originally ordered them to be prepared within a reasonable time upon
6 request. Radiographs originating at an emergency hospital shall become the property
7 of the next attending veterinary facility upon receipt of said radiograph(s). Transfer of
8 radiographs shall be documented in the medical record.

9 (2) Radiographs and digital images, except for intraoral radiographs,
10 shall have a permanent identification legibly exposed in the radiograph or
11 attached to the digital file, which shall include the following:

12 (A) The hospital or clinic name and/or the veterinarian's
13 name,

14 (B) Client identification,

15 (C) Patient identification, and

16 (D) The date the radiograph was taken.

17 (3) Non-digital intraoral radiographs shall be inserted into sleeve
18 containers and include information in subdivision (c)(2)(A)-(D). Digital
19 images shall have identification criteria listed in subdivision (c)(2)(A)-(D)
20 attached to the digital file.

21 (d) Laboratory data is the property of the veterinary facility which originally
22 ordered it to be prepared, and a copy shall be released upon the request of the client.

23 (e) The client shall be provided with a legible copy of the medical record
24 when the patient is released following emergency clinic service. The minimum
25 information included in the medical record shall consist of the following:

26 (1) Physical examination findings

27 (2) Dosages and time of administration of medications

28 (3) Copies of diagnostic data or procedures

(4) All radiographs and digital images, for which the facility shall
obtain a signed release when transferred

(5) Surgical summary

(6) Tentative diagnosis and prognosis, if known

(7) Any follow-up instructions.

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FACTUAL ALLEGATIONS

11. On or about the morning of March 14, 2012, Cameron V.'s grandmother brought Cameron's female Maltipoos dog ("Luna") to Respondent's clinic for an ovariohysterectomy procedure. Luna had previously been a patient at Respondent's clinic. Cameron's grandmother told employees at the hospital that they thought the dog might be pregnant. Cameron wanted to cancel the procedure if Luna was pregnant. Cameron's grandmother provided telephone numbers where Cameron could be reached. It was agreed that Cameron would call the clinic at noon to find out if Luna was pregnant. At 11:00 a.m., the clinic contacted Cameron by telephone stating that the ovariohysterectomy had already taken place. The clinic employees stated that they were unable to contact Cameron at the telephone numbers provided by Cameron's grandmother prior to the surgery. When Cameron's husband came to pick up Luna at the clinic later that day, the clinic initially refused to give him the dog because ownership of Luna was in dispute.

12. A veterinarian was directed by the Board to conduct a review of Luna's medical files and provide an opinion as to whether Respondent violated statutes and/or regulations adopted by the Board. The Board consultant found the following violations:

a. On May 6, 2011, Luna was first seen by Respondent. The treatment record is illegible and no doctor initials are present to determine if an appropriate veterinarian-client-patient relationship existed prior to administering vaccinations. There were no physical examination findings, and no diagnosis noted in the treatment record.

b. On January 25, 2012, Luna was seen by Respondent for a skin condition. There were no physical examination findings, no history, and no diagnosis noted in the treatment record.

c. On March 14, 2012, when Luna was presented for the ovariohysterectomy procedure, there were no physical examination findings, and no diagnosis noted in the treatment record. The record did not state the anesthetic protocol, what drugs were administered, the drug dosages, or monitoring. The owners were not provided post-operative care instructions.

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1 13. Respondent failed to comply with the Decision and Order "*In the Matter of the*
2 *Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19; effective May 6, 2011,
3 Condition 2 regarding quarterly reports and interviews when he failed to timely provide Quarterly
4 Reports as follows:

Reporting Period	Due Date	Date Received	Comments
Apr-May-Jun 2012	7/5/12	8/14/12	Late
Jul-Aug-Sep 2012	10/5/12	5/28/13	Late
Jan-Feb-Mar 2013	4/5/13	5/28/13	Late
Apr-May-Jun 2013	7/5/13	3/5/14	Late
Jul-Aug-Sep 2013	10/5/13	11/26/13	Late
Oct-Nov-Dec 2013	1/5/14	3/5/14	Late
Jan-Feb-Mar 2014	4/5/14	5/16/14	Late
Apr-May-Jun 2014	7/5/14		Not Submitted
Jul-Aug-Sep 2014	10/5/14	11/3/14	Late

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16 14. Respondent failed to comply with the Decision and Order "*In the Matter of the*
17 *Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19; effective May 6, 2011,
18 Condition 17 for failing to abstain from controlled substances or provide a prescribing physician
19 letter indicating a medically necessary medication resulted in positive biological fluid test results
20 on February 4, 2015, January 27, 2015, October 27, 2014, October 3, 2014, September 25, 2014,
21 September 3, 2014, June 27, 2014, and May 23, 2014.

22 15. Respondent failed to comply with the Decision and Order "*In the Matter of the*
23 *Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19; effective May 6, 2011,
24 Condition 18 for failing to abstain from use of alcoholic beverages.

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1 **SECOND CAUSE TO REVOKE PROBATION**

2 **(Quarterly Reports and Interviews)**

3 20. At all times after the effective date of Respondent's probation, Condition 2 stated:

4 **Condition 2: Quarterly Reports And Interviews**

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6 Respondent shall report quarterly to the Board or its designee, under penalty
7 of perjury, on forms provided by the Board, stating whether there has been
8 compliance with all terms and conditions of probation. In addition, the Board at its
9 discretion may request additional in-person reports of the probationary terms and
10 conditions. If the final written quarterly report is not made as directed, the period of
11 probation shall be extended until such time as the final report is received by the
12 Board. Respondent shall make available all patient records, hospital records, books,
13 logs, and other documents to the Board, upon request.

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15 21. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition 2, referenced above, for failure to timely provide Quarterly Reports as more
17 fully described in paragraph 13, above and as follows:

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Reporting Period	Due Date	Date Received	Comments
Apr-May-Jun 2012	7/5/12	8/14/12	Late
Jul-Aug-Sep 2012	10/5/12	5/28/13	Late
Jan-Feb-Mar 2013	4/5/13	5/28/13	Late
Apr-May-Jun 2013	7/5/13	3/5/14	Late
Jul-Aug-Sep 2013	10/5/13	11/26/13	Late
Oct-Nov-Dec 2013	1/5/14	3/5/14	Late
Jan-Feb-Mar 2014	4/5/14	5/16/14	Late
Apr-May-Jun 2014	7/5/14		Not Submitted
Jul-Aug-Sep 2014	10/5/14	11/3/14	Late

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1 **THIRD CAUSE TO REVOKE PROBATION**

2 (Abstention from Controlled Substances)

3 22. At all times after the effective date of Respondent's probation, Condition 17 stated:

4 **Condition 17: Abstention from Controlled Substances**

5 Respondent shall completely abstain from the personal use or possession of
6 controlled substances, as defined in the California Uniform Controlled Substances
7 Act, and dangerous drugs as defined in Section 4211 of the Business and
8 Professions Code, except when lawfully prescribed by a licensed practitioner for a
bonafide illness.

9 23. Respondent's probation is subject to revocation because he failed to comply with
10 Probation Condition 17, referenced above, for failing to abstain from controlled substances or
11 provide a prescribing physician letter indicating a medically necessary medication resulted in
12 positive biological fluid test results on February 4, 2015, January 27, 2015, October 27, 2014,
13 October 3, 2014, September 25, 2014, September 3, 2014, June 27, 2014, and May 23, 2014, as
14 more fully described in paragraph 14, above.

15 **FOURTH CAUSE TO REVOKE PROBATION**

16 (Abstention from Alcohol Use)

17 24. At all times after the effective date of Respondent's probation, Condition 18 stated:

18 **Condition 18: Abstention from Alcohol Use**

19 Respondent shall abstain completely from the use of alcoholic beverages.

20 25. Respondent's probation is subject to revocation because he failed to comply with
21 Probation Condition 18, referenced above, for failing to abstain from alcohol use, as more fully
22 described in paragraph 15, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and Second Amended Petition to Revoke Probation, and that following the hearing, the Veterinary Medical Board issue a decision:

1. Revoking the probation that was granted by the Veterinary Medical Board in Case No. AV 2006 19 and imposing the disciplinary order that was stayed thereby revoking Veterinarian License No. VET 9742 issued to James C. Coghlan;
2. Revoking or suspending Veterinarian License No. VET 9742 issued to James C. Coghlan;
3. Taking such other and further action as deemed necessary and proper.

DATED: February 18, 2016

Karen Gordon for

ANNEMARIE DEL MUGNAIO
Executive Officer
Veterinary Medical Board
Department of Consumer Affairs
State of California
Complainant

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